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CATHY RILEY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO DIVISION)

Davison Design & Development Inc., <i>et al.</i> ,)	Case No. 3:11-cv-02970 (EDL)
)	
Plaintiffs,)	DEFENDANT'S REQUEST TO ENTER
)	PLAINTIFFS' DEFAULT
vs.)	
)	
Cathy Riley [erroneously sued as Catherine Riley],)	
)	
)	
Defendant.)	
<hr style="border: 0.5px solid black;"/>		
CATHY RILEY,)	
)	
Counter-Claimant,)	
)	
vs.)	
)	
SPIRE VISION HOLDINGS INC., <i>et al</i>)	
)	
Counter-Defendants.)	

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TO THE CLERK OF THE ABOVE-ENTITLED COURT:

Defendant/Counter-Claimant Cathy Riley (“Riley”) hereby requests that the Clerk of the above-entitled Court enter default in this matter against Plaintiffs –

- Davison Design & Development Inc., a Pennsylvania corporation,
- XL Marketing Corp., a Delaware corporation,
- Spire Vision Holdings, Inc., a Delaware corporation,
- ProAdvertisers, LLC, a Delaware Limited Liability Company,
- Prime Advertisers, LLC, a Nevada Limited Liability Company,
- MediActivate, LLC, a Nevada Limited Liability Companies,
- ConnectionCentrals, [allegedly] a Delaware Series Limited Liability Company

– as to Plaintiffs’ Complaint against Riley, on the grounds that said Plaintiffs failed to amend their Complaint within the time prescribed by the Federal Rules of Civil Procedure.

On January 10, 2012, this Court entered its Minute Order shortly several hours after the hearing on Riley’s Motion for a More Definite Statement. In accordance with Plaintiffs’ Counsel John Du Wors’ suggestion during the hearing, the Court ordered counsel on both sides to meet and confer within 24 hours and submit a joint statement re: Plaintiffs’ federal claims. Docket #31. At the hearing, this Court also stated that alternatively, Plaintiffs could simply file a Second Amended Complaint, removing claims as to the federal CAN-SPAM Act. Docket #32, Declaration of Daniel Balsam at ¶ 12.

Du Wors failed to contact Riley’s counsel within 24 hours, despite Riley’s counsel making two attempts to contact him and this Court’s issuance of the Minute Order. *Id.* at ¶¶ 13-16.

1 On January 10, 2012, Du Wors filed a declaration that Plaintiffs elect to withdraw their
2 federal claims, but since Du Wors was travelling, he would not be able to prepare a [second]
3 amended complaint before January 16. Docket #33, Declaration of John Du Wors at ¶¶ 3-4.

4 FRCP 12(a)(4)(B) states that the responsive pleading following the Court granting a Rule
5 12(e) motion for a more definite statement must be filed within 14 days.

6 This Court granted in part and denied in part Riley's 12(e) motion. Docket #31.

7 As of the filing of this Request for Entry of Default on January 25, 2012, Plaintiffs have
8 not filed a Second Amended Complaint, even though more than 14 days have passed since the
9 Court's issuance of its Minute Order on January 10, 2012.

10 Accordingly, Riley requests that the Clerk enter Plaintiffs' default.

11 The above stated facts are set forth in this Court's Minute Order, Docket #31, and the
12 Declarations of Daniel Balsam and John Du Wors, Dockets #32 and 33, on file with this Court,
13 and the Register of Actions in general.

14 THE LAW OFFICES OF DANIEL BALSAM

15 Dated: Jan. 25, 2012

/s/ Daniel L. Balsam

Daniel L. Balsam

Attorneys for Defendant/Counter-Complainant

Cathy Riley